

# Fiscal Note

*Fiscal Services Division*



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**HF 278** – Eluding Law Enforcement in Motor Vehicle (LSB 2201HV)  
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Fiscal Note Version – New  
Requested by Representative Kurt Swaim

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## **Description**

**House File 278** broadens the definition of eluding or attempting to elude a marked law enforcement vehicle. In order to be convicted under this Bill the driver must also have committed another traffic offense.

## **Background**

### **Correctional and Fiscal Information**

- The table below shows the number of misdemeanor convictions for the last two fiscal years per the Justice Data Warehouse.

Misdemeanor Convictions for Eluding		
	FY 2009	FY 2010
Serious Misdemeanor	168	167
Aggravated Misdemeanor	147	142
Total	315	309

- Approximately 50.0% of offenders currently convicted of a serious misdemeanor could be convicted of an aggravated misdemeanor under the provisions of this Bill.
- According to the Iowa Corrections Offender Network (ICON), approximately 62.2% of offenders under correctional supervision for serious misdemeanor eluding also had convictions for more serious offenses.
- This Bill's provisions will apply to 37.8% of offenders currently being convicted of a serious misdemeanor.
- Based on information from the Iowa Court Information System (ICIS) and ICON data, for those aggravated misdemeanants with no concurrent or consecutive felony, the probation rate is 72.5%, residential placement to an Operating While Intoxicated (OWI) facility is 5.0%, and the prison incarceration rate is 22.5%.
- According to ICIS data, the jail incarceration rate for aggravated misdemeanants is 49.3% and the average jail term imposed is 35 days. The jail incarceration rate for serious misdemeanants is 58.4% and the average jail term imposed is 56 days. The marginal cost per day for county jails is \$15.00.
- An offender convicted of a serious misdemeanor is required to pay a fine of at least \$315 but no more than \$1,875. The judge may impose imprisonment not to exceed one year. Sentences of one year or less are served in county jails.

- An offender convicted of an aggravated misdemeanor is required to pay a fine of at least \$625 but no more than \$6,250. The judge may impose imprisonment not to exceed two years. Sentences greater than one year are served in the State prisons.
- The average length of stay in prison for aggravated misdemeanants is 7.9 months. The marginal cost per day is \$16.75.
- The average length of stay in a residential facility is 4.1 months. The marginal cost per day is \$11.02. The current waiting list for placement in a Community-Based Corrections (CBC) residential facility is 788 offenders. This number includes offenders waiting in State prison, parole, probation, county jails, or the U.S. prison system.
- A serious misdemeanor sentenced to probation serves 10.8 months on average while an aggravated misdemeanor serves 19.6 months on average. The difference in the average length of stay on probation for an aggravated misdemeanor compared to a serious misdemeanor is 8.8 months. The average length of stay on parole upon release from prison for an aggravated misdemeanor is 5.6 months. The average daily cost for parole or probation is \$3.24.
- The difference in cost per case for indigent defense for an aggravated misdemeanor compared to a serious misdemeanor is \$600.
- There is minimal difference in costs to the Judicial Branch for an aggravated misdemeanor compared to a serious misdemeanor.

**Minority Data Information:** Approximately 40.0% of offenders convicted of serious misdemeanor eluding are African Americans.

### **Assumptions**

#### **Correctional and Fiscal Information**

- Charge, conviction, and sentencing patterns and trends will not change over the projection period.
- Prisoner length of stay, revocation rates, and other correctional policies and practices will not change over the projection period.
- The law will become effective July 1, 2011. A lag effect of six months is assumed from the effective date to the date of first entry of affected offenders into the correctional system.
- Broadening the definition to remove the speeding requirement and adding an endangerment component may increase the number of aggravated misdemeanor convictions and decrease the number of serious misdemeanor convictions.
- Eluding may not be the most serious conviction for offenders convicted of this offense. They may receive multiple convictions for their actions where a felony may be the lead offense. To the extent that a percentage of offenders have a lead offense of a felony, this Bill will have a limited correctional impact on offenders currently convicted of the aggravated misdemeanor conviction.
- Half of the offenders convicted will be indigent.

**Minority Data Information:** Approximately 14.0% of Iowa's population has at least one disability. The number of disabled offenders convicted under this Bill may be 14.0%.

### **Summary of Impacts**

#### **Correctional Impact**

There will be 84 offenders annually convicted of an aggravated misdemeanor under the Bill that are convicted of a serious misdemeanor under current law. Of these, 52 will have more serious offenses and not be impacted by the enhanced penalty for eluding imposed by this Bill. Of the remaining 32 offenders, 14 offenders will be sentenced to correctional supervision as follows: 10 to probation, 1 to OWI residential facility, and 3 to prison. The 10 offenders sentenced to probation would have received probation under current law. However, they will remain on probation for a longer period (8.8 months) than current law.

There will be 18 offenders not sentenced to prison, residential facilities, or probation. Of these, 16 offenders convicted under this Bill will receive a jail sentence. Upon release from jail they may also receive a fine or community service, or both. There will be two offenders that may receive a fine or community service, or both.

There will be two offenders admitted to prison in FY 2012, and three annually thereafter. The prison population will increase by two offenders in FY 2012, and three annually thereafter for the next five years. There will not be a significant increase in the prison population because the average length of stay is short (7.9 months).

On an annual basis, there will be three fewer admissions to county jails. Under current law, 19 serious misdemeanants are sentenced to county jails for an average length of stay of 56 days. Under the Bill, 16 of the 19 offenders will be aggravated misdemeanants sentenced to county jails for an average length of stay of 35 days. There will be a net reduction of 504 fewer days served in jail.  $[(19 \text{ offenders} \times 56 \text{ days}) - (16 \text{ offenders} \times 35 \text{ days})]$ .

On an annual basis, there will be one additional admission to CBC residential facilities. The offender will be released to probation upon successful completion of the residential program. Note there are currently offenders waiting to enter residential facilities.

There will be one additional admission to probation supervision annually. However, this offender will remain on correctional supervision for a longer period (8.8 months) compared to current law. There will be a slight increase in the probation population in future years because of the increased length of stay in the system.

#### **Minority Impact**

It is anticipated this Bill will have a disproportionate impact on African Americans because approximately 40.0% of offenders convicted of serious misdemeanor eluding are African Americans. To the extent the Bill shifts serious misdemeanor convictions to aggravated misdemeanor convictions, there will be an increase in the length of stay of minority offenders in the corrections system.

## Fiscal Impact

The fiscal impact is estimated to be an increased cost to the State General Fund of \$11,100 in FY 2012 and \$30,100 in FY 2013. The table below shows the impact by areas within the State criminal justice system.

State General Fund Impact		
	FY 2012	FY 2013
Indigent Defense	\$ 4,800	\$ 9,600
State Prisons	6,000	18,000
CBC	300	2,500
	<u>\$ 11,100</u>	<u>\$ 30,100</u>

There will be a savings to county jail operations of approximately \$7,600 annually.

## Sources

Department of Corrections  
Department of Human Rights, Criminal and Juvenile Justice Planning Division  
Judicial Branch  
Office of the State Public Defender

/s/ Holly M. Lyons

February 23, 2011

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The fiscal note for this bill was prepared pursuant to [Joint Rule 17](#) and the correctional and minority impact statements were prepared pursuant to [Section 2.56](#), Code of Iowa. Data used in developing this fiscal note, including correctional and minority impact information, is available from the Fiscal Services Division of the Legislative Services Agency upon request.

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